

Message Text

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FM SECSTATE WASHDC

TO USMISSION USUN NEW YORK PRIORITY

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E.O. 11652: N/A

TAGS: UN, PFOR, ILC

SUBJECT: UNGA LEGAL COMMITTEE: SUCCESSION OF STATES IN
RESPECT OF TREATIES

REF: USUN 5113

1. DEPARTMENT HAS CONSIDERED DRAFT RESOLUTION OF UK DEL
(EVANS) AS PREPARED ON SUBJECT ITEM. FOR REASONS THAT
FOLLOW DEPARTMENT CONTINUES TO PREFER THAT MATTER NOT BE
REFERRED BACK TO INTERNATIONAL LAW COMMISSION. ACCORDINGLY,
EVANS SHOULD BE INFORMED THAT WE WOULD NOT BE WILLING TO
COSPONSOR OR OTHERWISE ENDORSE RESOLUTION.

2. AS WE SEE IT ESSENCE OF EVANS' PROPOSAL IS TO HAVE ILC
REEXAMINE THREE ISSUES: (A) SETTLEMENT OF DISPUTES,
(B) MULTILATERAL TREATIES OF A UNIVERSAL CHARACTER, AND
(C) MODALITIES BY WHICH A SUCCESSOR STATE SHOULD BE
ENABLED TO APPLY THE REGIME EMBODIED IN THE ARTICLES TO
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ITS OWN SITUATION. DEPARTMENT CONSIDERS THAT COMMISSION

WOULD BE REQUIRED DEVOTE AT LEAST THREE WEEKS TO EXAMINING THESE ISSUES AND DOUBTS THAT COMMISSION, EVEN IF IT SHOULD SUCCEED IN RESOLVING ISSUE (C), WILL MAKE MEANINGFUL PROGRESS IN RESOLVING ISSUES (A) AND (B).

3. AS INDICATED PARAS. 139-147 OF COMMISSION'S 1975 REPORT DECISION HAS BEEN MADE TO GIVE PRIORITY TO COMPLETION OF ARTICLES ON MOST-FAVORED-NATION CLAUSE AND OF CHAPTER III OF PART I OF STATE RESPONSIBILITY ARTICLES. SOME WORK ON ARTICLES ON TREATIES AND INTERNATIONAL ORGANIZATIONS AND SUCCESSION OF STATES IN RESPECT OF MATTERS OTHER THAN TREATIES WILL BE REQUIRED IF COMMISSION IS TO MAKE NECESSARY INTERIM PROGRESS TO ACHIEVEMENT OF GOALS FOR COMPLETION OF WORK ON THOSE TOPICS. DEVOTION OF NEARLY ONE-THIRD OF COMMISSION'S FORTHCOMING SESSION TO A TOPIC ON WHICH THE COMMISSION BELIEVED IT HAD COMPLETED WORK WOULD SERIOUSLY IMPAIR THE ABILITY OF THE COMMISSION TO REACH THE GOALS ON PRIORITY TOPICS THAT IT HAS ALREADY ESTABLISHED.

4. DEPARTMENT OF COURSE RECOGNIZES THAT THE PROBLEM DESCRIBED IN PARA. 2 (C) ABOVE REQUIRES SOLUTION. INDEED, OUR COMMENTS ON ARTICLE VII OF THE DRAFT ARTICLES POINTED OUT NEED FOR A MECHANISM TO PERMIT SUCCESSOR STATES TO APPLY THE DRAFT ARTICLES TO THEIR OWN SITUATIONS. HOWEVER WE DO NOT SEE WHY THERE CANNOT BE AN EXCHANGE OF VIEWS ON THIS QUESTION WITH A VIEW TO DEVELOPING A TEXT WHICH INTERESTED STATES MIGHT PROPOSE TO RESOLVE THE PROBLEM WHEN THE ARTICLES ARE BEING CONSIDERED BY THE DIPLOMATIC CONFERENCE. IF EVANS' THINKING ON THIS QUESTION HAS DEVELOPED TO THE POINT WHERE HE HAS A TEXT, WE WOULD APPRECIATE BEING GIVEN AN OPPORTUNITY TO CONSIDER IT.

5. YOU SHOULD EMPHASIZE THIS IS OUR PRELIMINARY REACTION. IF BRITISH HAVE STRONG FEELINGS, WE WOULD BE WILLING TO REVIEW. IN ANY EVENT, WE WOULD WISH TO AVOID CONFLICT WITH BRITISH IN SIXTH COMMITTEE. INGERSOLL

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